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BAUCUS, HATCH INTRODUCE BILL TO BEEF UP TRADE ENFORCEMENT

Legislation develops and strengthens trade enforcement tools

Washington, DC – Senate Finance Committee Chairman Max Baucus (D-Mont.) and Senator Orrin Hatch (R-Utah) today introduced legislation that will significantly bolster the U.S. government's trade enforcement abilities. The Trade Enforcement Act of 2007 creates tools that will ensure proper enforcement of international trade agreements and domestic trade remedy laws. The proposal devotes more resources to identify and remove trade barriers, institutes greater oversight of trade enforcement, and clarifies procedures for detecting and prosecuting violations of our trade laws.

"Trade is an essential part of America's economic machine, and this bill ensures we have the right parts to keep that machine running strong," said Baucus. **"Americans play by trade rules and they deserve to benefit from other countries doing the same. This bill gives the right tools to the right folks to deliver financial security to the millions of Americans who rely on tough enforcement of our trade laws."**

"I'm joining Senator Baucus in this effort because I want to help put the U.S. back on the road of free trade," said Hatch. **"I generally support open markets around the world and have supported administration after administration in their efforts to liberalize global markets. But we can't be the only country that is always held to account for allegedly violating international trade agreements. I strongly feel that if the United States does a better job at enforcing our trade laws, we will be able to clear away some of the mistrust and skepticism that currently exists within the Congress when international trade is discussed."**

The Trade Enforcement Act of 2007 improves the administration's ability to enforce our international trade agreements abroad and our domestic trade remedy laws such as antidumping, countervailing duty, and safeguard laws. The Baucus-Hatch proposal requires the United States Trade Representative to provide an annual report to Congress identifying its trade enforcement priorities, including priorities identified by Congress, and to take action to address them. The proposal creates a WTO dispute settlement review commission and a Senate-confirmed Chief Enforcement Officer, as championed by Senator Debbie Stabenow (D-Mich.), to investigate and prosecute trade enforcement cases. The legislation also strengthens the authority of the International Trade Commission and the Commerce Department to enforce our antidumping, countervailing duty, and intellectual property laws. Finally, the legislation limits the President's discretion under the China safeguard law to ensure that U.S. industries receive the relief that Congress originally intended. A detailed summary follows below.

The Senate Finance Committee, of which Hatch is also a member, has jurisdiction over U.S. trade policy.

The Trade Enforcement Act of 2007

Bolsters Enforcement of U.S. Trade Agreements Abroad

- **Identification and Resolution of Priority Foreign Country Trade Practices.** The bill requires the United States Trade Representative (USTR) to provide an annual report to Congress identifying the most significant market access barriers to U.S. companies abroad and to take enforcement action to resolve them.
- **A New Role for Congress in Establishing Enforcement Priorities.** By majority vote, the Senate Finance Committee or the House Ways and Means Committee could require USTR to identify a specific priority foreign country trade practice in its annual report.
- **Establishment of a World Trade Organization (WTO) Dispute Settlement Review Commission.** The bill sets up a Commission of retired judges and international trade law experts to review WTO dispute settlement reports to determine whether they, among other things, added to the United States' obligations under the WTO or deviated from the standard of review. No change may be made to a federal regulation to comply with an adverse WTO dispute settlement report until Congress receives the Commission's report on its review.
- **A New USTR Chief Enforcement Officer.** The bill creates a Senate-confirmed Chief Enforcement Officer to investigate and prosecute trade enforcement cases. It also establishes an interagency Trade Enforcement Working Group to advise USTR and authorizes \$5 million for USTR's enforcement responsibilities.
- **Clarification of Interagency Role.** The bill provides that the USTR must carefully consider any advice provided by the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, but clarifies that the USTR need not and shall not seek approval from the interagency trade organization for any actions the USTR takes in performing his or her functions.

Bolsters Enforcement of U.S. Trade Remedy Laws at Home

- **Limitation of President's Section 421 Discretion.** The bill requires the President to proclaim any import relief that the International Trade Commission (ITC) recommends in a China safeguard investigation under Section 421 of the Trade Act of 1974. The President may decline to provide such relief only in extraordinary cases and only if the President determines that the relief would seriously harm our national security or would have an adverse impact on our economy that clearly and significantly outweighs the benefits.
- **A New Role for Congress in Section 421 Investigations.** If the President declines to provide the relief recommended by the ITC pursuant to the economic exception described above, such relief will nonetheless take effect upon the enactment of a joint Congressional resolution disapproving the President's action.
- **Application of Countervailing Duties to Nonmarket Economies.** The bill amends Section 701(a)(1) of the Tariff Act of 1930 to clarify that the Commerce Department has the authority to apply countervailing duties to nonmarket economies like China.
- **Clarification of Material Injury Determination.** The bill overrides the Federal Circuit's Bratsk decision by providing that the ITC must make its material injury determination in antidumping and countervailing duty cases without regard to whether other imports will likely replace imports from the country under investigation.

- **Increased Intellectual Property Expertise at the ITC.** The bill authorizes the ITC to appoint hearing officers, rather than administrative law judges (ALJs), to take evidence and make initial decisions in intellectual property investigations under Section 337 of the Tariff Act of 1930. Unlike the current ALJs, the hearing officers would be required to have technical expertise and experience in intellectual property law.

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